IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH APRIL 2007 / 4TH VAISAKHA 1929

WP(C).No. 13617 of 2007(U)

PETITIONER:

GEORGE ALBERT LOPEZ,PROPRIETOR,
STREAMLINE MARKETING,PROVIDENCE PLAZA,
PRPVIDENCE ROAD,COHIN-18,ERNAKULAM.

BY ADV. SMT.S.K.DEVI
SRI.K.P.PRADEEP (PAYYANNUR)

RESPONDENTS:

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1. THE SALES TAX OFFICER, IST CIRCLE,
DEPARTMENT OF COMMERCIAL TAXES,ERNAKULAM.

2. INSPECTING ASSITANT COMMISSIONER,
(RECOVERY),DEPARTMENT OF COMMERCAIL TAXES,
ERNAKULAM.

3. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY,FINANCE SECRETRIAT,
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER SRI. NOBLE MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S. Siri Jagan, J.

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W.P(C) No. 13617 of 2007

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Dated this, the 24th day of April, 2007.

J U D G M E N T

Heard the learned counsel for the petitioner as also the learned Government pleader appearing for the respondents. The petitioner has been assessed sales tax for the year 2004-2005 as per Ext.P1. Ext.P2 demand notice has been issued for recovery of the amounts. The petitioner's only contention in this writ petition is that because of financial constraints, the petitioner is not able to pay the entire amount in lump sum. He requests for ten equal monthly instalments for paying the amounts demanded as per Exts.P1 and P2.

2. The learned Government pleader stoutly opposes the petitioner's prayer. He submits that the granting of instalments for payment of tax is a discretion vested with the Assessing Authority, who has to exercise his discretionary power and therefore the petitioner has to approach the Assessing Authority itself. He further submits that even if this Court is inclined to grant instalment facility to the petitioner, that cannot be more than six instalments as provided in Rule 30(b) of the Kerala General Sales Tax Rules.

3. After hearing both sides, I direct the 1st respondent to permit the petitioner to pay off the amounts covered by Exts.P1 and P2 in six equal monthly instalments starting from 15.5.07. Every subsequent instalments shall be paid on the 15th of every succeeding

month or the next working day, if 15th is a holiday. If the petitioner pays the instalments in time, further coercive proceedings pursuant to Exts.P1 and P2 shall be kept in abeyance. However, if the petitioner commits default in payment of even one instalment, it would be open to the respondents to recover the entire amount in lump sum by resorting to appropriate proceedings under the Kerala General Sales Tax Rules.

The writ petition is disposed of as above.

S. SIRI JAGAN, JUDGE.

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